THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 4th day of October,2007

W.P.Nos.416 and 2106 of 2006

W.P.No.416 of 2006

Between:-

M. Chalapathy & another … Petitioners

and

Food Corporation of India,
Zonal Office, 3 Haddows Road,
Chennai-600 008, rep. by its
Zonal Manager & others … Respondents

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W.P.Nos.416 and 2106 of 2006

COMMON ORDER:

These two Writ Petitions are filed seeking a Mandamus to declare the Office Order No.111/2005/E.II, dated 28-12-2005 issued by the Deputy General Manager (Per) for Executive Director of the Food Corporation of India, Zonal Office at Chennai as arbitrary and illegal.

It appears, petitioners were promoted to the post of Assistant Grade-III (General) on regular basis by an Order dated 23-2-2005. After working for more than 10 months, the impugned Order dated 28-12-2005 was passed by the respondent-Corporation reverting them, stating that the Orders of promotion issued to them on 23-2-2005 are cancelled, since their services were regularized with effect from 2-5-1986 only, as per the Order dated 19-12-2005 of the General Manager (AP), Food Corporation of India, Hyderabad.

While admitting the Writ Petitions on 3-2-2006, this Court by interim orders directed the respondents to continue the petitioners as Assistant Grade-III (General) by suspending the Office Order dated 28-12-2005 and thus the petitioners are being continued as such in the post of Assistant Grade-III till date.

It is the case of the respondents that the services of the petitioners were regularized with effect from 2-5-1986, the date on which the Award was passed by the Industrial Tribunal and the Proceedings dated 23-2-2005 promoting the petitioners

were issued on an erroneous view and the same has been rectified through the impugned Proceedings dated 28-12-2005.

Be that as it may, the very impugned Order was passed in gross violation of principles of natural justice. Petitioners were neither put on notice nor any show cause notice was issued as to why the promotion orders issued earlier should not be cancelled since their services were regularized with effect from 2-5-1986 and not prior to that date. In view of the above, there is no necessity of going into all the details. Accordingly, the impugned Order is liable to be set aside and is accordingly set aside.

The Writ Petitions are, therefore, allowed. However, this will not preclude the respondents from issuing a show cause notice and calling for explanation from the petitioners and deciding the matter on merits, after hearing them and passing the orders as per law. No order as to costs.

04-10-2007

Office to furnish
CC within 3 days
(B.O.)
prk